

Judge Leighton

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
JASON A. GREEN,  
Defendant.

NO. CR13-5633RBL

## GOVERNMENT'S SENTENCING MEMORANDUM

JASON A. GREEN,

**Defendant.**

The United States of America, by and through Annette L. Hayes, Acting United States Attorney for the Western District of Washington, and Arlen R. Storm, Assistant United States Attorney for the Western District of Washington, hereby submits its Sentencing Memorandum in the above-entitled case.

## I. BACKGROUND

## *Green and Dillingham Conspire to Submit False Invoices to US Foodservice*

Jason Green and Jimmie Dillingham were friends who both bowled on the same bowling team and gambled together. Dillingham operated a company called J.D. Striping, through which, among other things, he striped parking lots. Green, on the other hand, was Vice President of Finance for the NW Division of US Foodservice.

As the Vice President of Finance, Green had authority to select vendors and review and approve their invoices. On October 10, 2005, Green assisted Dillingham in

1 becoming a US Foodservice vendor by, among other things, faxing relevant documents to  
 2 the US Foodservice Vendor Support Office in Phoenix, Arizona. Thereafter, during  
 3 March 2008, Dillingham started submitting invoices to US Foodservice for various small  
 4 jobs that J.D. Striping actually had performed.

5 Beginning in July 2009, however, Green and Dillingham conspired to submit false  
 6 J.D. Striping invoices to the US Foodservice Vendor Support Office. In carrying out this  
 7 scheme, they submitted false invoices for various services, including making repairs at  
 8 the US Foodservice “Ridgefield” facility in Vancouver, Washington, and pressure  
 9 washing trucks at the US Foodservice “Stock Yards” facility in Renton. J.D. Striping had  
 10 not, in fact, provided these services. Rather, US Foodservice sold Ridgefield “as is” and  
 11 another company, Coles Truck Washing Service, pressure washed US Foodservice’s  
 12 trucks at the Stock Yards.

13 During the fall of 2009, moreover, Green and Dillingham agreed that Dillingham  
 14 would create a second business entity, Day and Night Security, and that they also would  
 15 submit to US Foodservice false Day and Night Security invoices.

16 Pursuant to their agreement, Dillingham registered the trade name Day and Night  
 17 Security, and opened a bank account in that name. During a telephone call on  
 18 October 19, 2009, moreover, Green falsely told M.W. of Securitas, the company that had  
 19 been providing security services at Ridgefield, that because business was picking up, the  
 20 Ridgefield warehouse was no longer abandoned, and that, as a result, US Foodservice no  
 21 longer needed security at the warehouse. The following day, October 20, 2009, Green  
 22 faxed a Day and Night Security W-9 to the US Foodservice Vendor Support Office in  
 23 Phoenix, in order to establish Day and Night Security as a US Foodservice vendor.

24 Green and Dillingham proceeded to bill US Foodservice for security guard  
 25 services for “18 hours per day - Seven days per week.” Day and Night Security, however,  
 26 was not providing the security guard services for which it was billing US Foodservice.  
 27 Between June and August 2010, in preparing to purchase the Ridgefield facility, G.A.,  
 28 Director of Operations for NW Natural Products (“NNP”), and others, visited the

1 Ridgefield facility on at least 15 separate occasions. During these visits, they never saw  
 2 any on-site security guards. On numerous occasions, moreover, Green and Dillingham  
 3 submitted multiple Day and Night Security invoices to US Foodservice for the same  
 4 month: (1) two invoices were submitted for April 2010, billing a total of \$26,000; (2) two  
 5 invoices were submitted for June 2010, billing a total of \$28,000; (3) four invoices were  
 6 submitted for July 2010, billing a total of \$42,000; and (4) two invoices were submitted  
 7 for August 2010, (the monthly fee charged also was doubled that month), billing a total  
 8 of \$60,000.

9                   *Roles in the Offense*

10                  Green created the fraudulent J.D. Striping and Day and Night Security Invoices  
 11 and caused them to be submitted to the US Foodservice Vendor Support Office.<sup>1</sup>  
 12 In addition, Green either personally approved the fraudulent invoices, or directed another  
 13 US Foodservice employee, T.H., to approve them. Because the invoices were for such  
 14 large amounts, in order to conceal the activity, Green accessed the US Foodservice  
 15 computer database and reclassified the General Ledger Codes assigned to them. In doing  
 16 so, he often grouped a fraudulent expenditure with other expenditures, then assigned  
 17 multiple, unrelated General Ledger Codes to the group, making it appear as though a  
 18 single fraudulent expenditure consisted of multiple smaller expenditures for completely  
 19 unrelated goods and services. Upon cashing the checks, Dillingham maintained two-  
 20 thirds of the proceeds and delivered one-third of the proceeds to Green.<sup>2</sup>

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22 <sup>1</sup> On at least one occasion, May 2, 2010, however, after creating a fraudulent Invoice, Green emailed it to  
 23 Dillingham, along with directions for Dillingham to mail the fraudulent invoice to the US Foodservice  
 24 Vendor Support Office.

25 <sup>2</sup> A review of Green's bank account records has revealed that prior to commencing the scheme, Green had  
 26 not made sizeable cash deposits. After commencing the scheme in July 2009, however, Green made 29  
 27 large cash deposits, totaling \$39,003, to his personal bank account. In addition, on May 12, 2010, and  
 28 November 26, 2010, Dillingham completed deposit slips and made cash deposits of \$6,000 and \$5,000,  
 respectively, to Green's personal account. On July 8, 2010, moreover, Dillingham issued a \$5,000 check  
 shortly after Dillingham deposited fraudulently obtained US Foodservice checks into Dillingham's bank  
 accounts, and subsequently withdrew large amounts of cash.

1                   *Use of Scheme Proceeds*

2         By at least 2009, Dillingham and Green, using scheme proceeds, were gambling,  
 3 and losing, heavily. A review of ATM withdrawals has revealed that Dillingham and  
 4 Green, and/or Green's wife, were at the Muckleshoot Casino in Auburn on the same date  
 5 33 times between August 15, 2009, and December 13, 2010. Their bank records further  
 6 reveal that during a typical visit to the Muckleshoot Casino, Green and Dillingham made  
 7 multiple withdrawals from their bank accounts, in increments of \$200 to \$500.  
 8 Muckleshoot Casino Players Club records, moreover, reveal that between January 2008,  
 9 and December 2010, Dillingham lost \$135,623, and Green lost \$44,926, at the  
 10 Muckleshoot Casino. In addition, those records reveal that during 2010, alone,  
 11 Dillingham and Green gambled at the Muckleshoot Casino on approximately 135 days  
 12 and 100 days, respectively.

13                  *Green and Dillingham Wind Up the Scheme*

14         By late-2010, Green realized that, given his manipulation of the company's books,  
 15 US Foodservice might become aware of the fraud. Before shutting down the fraud,  
 16 however, Green and Dillingham submitted large fraudulent invoices to US Foodservice  
 17 on behalf of both J.D. Striping and Day and Night Security.

18         For example, as alleged in Count 1 of the Information, on November 22, 2010,  
 19 Green caused to be electronically submitted to the US Foodservice Vendor Support  
 20 Office in Phoenix, J.D. Striping invoices for March, April, May, June, July, and August  
 21 2010, billing US Foodservice \$7,104.50 per month, for a total of \$42,627, for services  
 22 performed at the Stock Yards facility in Renton, that is, "Pressure Washing Services -  
 23 Monday to Saturday Service - On-Site - Tractors & Trailers - Building Parking Lot -  
 24 Monthly." Green personally electronically approved this invoice.

25         In the initial processing of this transaction, the single \$42,627 expenditure was  
 26 classified as General Ledger Code no. 14000000, that is, a "Prepaid Expense." In order to  
 27 minimize the likelihood that the expenditure would attract attention, however, on  
 28 December 9, 2010, Green accessed the US Foodservice computer database and

1 reclassified the General Ledger Code, changing it to unrelated General Ledger Codes  
 2 reflecting six smaller purchases.

3       Upon receiving a \$42,627 check from US Foodservice, Dillingham deposited the  
 4 check into his J.D. Striping bank account. Thereafter, on November 25, 2010,  
 5 November 26, 2010, November 29, 2010, and November 30, 2010, Dillingham made six  
 6 cash withdrawals, totaling approximately \$28,000.

7       Dillingham paid a portion of the scheme proceeds to Green. On November 26,  
 8 2010, Dillingham completed a deposit slip for Green's personal account and deposited  
 9 \$5,000 in cash into the account. In addition, on that same date, Green made a \$1000 cash  
 10 deposit into his personal account. Between November 30, 2010, and December 1, 2010,  
 11 moreover, Green made additional cash deposits totaling \$2,000 to his personal account.

12                   *Green Seeks to Explain an Accounting Shortfall to US Foodservice, and  
 13 Quits His Job When Executives Question His Conduct*

14       Given that Green had reclassified the General Ledger Codes assigned to a number  
 15 of the fraudulent invoices to reflect transactions involving the Workers Compensation  
 16 account, Green realized that accounting issues would ensue. Accordingly, on December  
 17 2, 2010, during a conversation with G.G., General Manager of the Stock Yards, Green  
 18 told G.G. there was an issue with the Workers Compensation account at US Foodservice,  
 19 and blamed the problems on Green's predecessor.

20       On December 7, 2010, Green also told T.V.O., President of the NW Division of  
 21 US Foodservice, that there were problems with the Workers Compensation account, and  
 22 that US Foodservice would not be receiving an anticipated \$500,000 refund from the  
 23 State of Washington. On December 10, 2010, T.V.O. and US Foodservice Western  
 24 Region Corporate Controller J.W. met with Green. When asked why J.D. Striping and  
 25 Day and Night Security were being paid via the Workers Compensation account, Green  
 26 asserted that he had made some accounting mistakes. When T.V.O. asked Green to go  
 27 through the records line by line, however, Green refused and resigned.  
 28

1                   *The Government's Investigation*

2         After obtaining and reviewing U.S. Foodservice's records, along with Green's and  
 3 Dillingham's bank records, investigating agents, on May 24, 2011, interviewed Green.  
 4 Among other things, they asked Green if Dillingham's companies had done any  
 5 legitimate work for US Foodservice. Green responded that "to say all the work that J.D.  
 6 Striping did was not legitimate would be inaccurate." When further asked if the  
 7 misappropriation of funds was a scheme with Dillingham that got out of control, Green  
 8 nodded his head in agreement, but did not respond verbally.

9         After that interview, the government proceeded to interview additional witnesses  
 10 and obtain the business records it anticipated it would need to prove the scheme,  
 11 including its scope, beyond a reasonable doubt. Among other records, the government  
 12 obtained Muckleshoot Players' Club records, UPS delivery records, personal and  
 13 business tax returns created and filed by Dillingham's accountant, Washington State  
 14 Department of Revenue State Business Records relating to J.D. Striping and Day and  
 15 Night Security Services, Experian and Equifax records, JP Morgan Chase bank records,  
 16 and Coles Truck Washing business records. In addition, during July 2012, the  
 17 government obtained a search warrant for two computers Green used while he was  
 18 employed by US Foodservice.

19         After evaluating the evidence, the government, on December 5, 2012, hand  
 20 delivered a "target letter" to Green notifying him that it had determined that there was  
 21 sufficient evidence to charge him, and requesting him to obtain counsel. In fact, Green  
 22 obtained counsel, and, on November 25, 2013, he entered a guilty plea to an Information  
 23 charging him with Mail Fraud.

24         Because agents were unable to set up an in-person meeting with Dillingham, the  
 25 government mailed a target letter to Dillingham in early-December, 2012. Because  
 26 Dillingham did not obtain counsel, however, the government proceeded with its  
 27 investigation, and on July 23, 2014, it sought and received an Indictment charging  
 28

1 Dillingham with Mail and Wire Fraud. On November 20, 2014, Dillingham also entered  
 2 a guilty plea.

3                   II.     GUIDELINE CALCULATIONS

4                 The government agrees with the Presentence Report that Jason Green's total  
 5 offense level is 22 and that his criminal history category is I. In addition, the government  
 6 agrees that the resulting applicable guideline range is 41 to 51 months' imprisonment.

7                   III.    THE GOVERNMENT'S RECOMMENDATION

8                 At sentencing, the government will recommend a sentence of 30 months'  
 9 imprisonment, to be followed by a three-year term of supervised release. In addition, the  
 10 government will recommend restitution in the amount of \$496,845.

11               Having been convicted of Grand Theft at the age of nineteen, Green, nevertheless,  
 12 went on to obtain a well-paying job with a respected company. After US Foodservice  
 13 demonstrated its trust in him by naming him Vice President of Finance, however, Green,  
 14 for more than a year, repeatedly and egregiously violated US Foodservice's trust. In  
 15 doing so, moreover, Green surely must have realized the potential jeopardy he placed  
 16 T.H. in, by causing T.H. to approve Green's fraudulent invoices, as well as the potential  
 17 jeopardy he placed his predecessor in by blaming accounting errors on him. While Green  
 18 had more than a year to reconsider his conduct, during the final months of the scheme,  
 19 Green both increased the amount of the fraudulent bills he submitted and repeatedly  
 20 double billed US Foodservice.

21               Given the seriousness of Green's offense, as reflected by the harm he inflicted  
 22 and the extended length of time during which he committed it, and the need to deter  
 23 Green from future crimes, as reflected by the tenacity with which he pursued this fraud  
 24 and his prior conviction for Grand Theft, the government believes that a significant  
 25 sentence, within the guideline range, would be appropriate in this case. In light of the  
 26 mitigating facts set forth in the government's departure motion, however, at sentencing,  
 27 government will recommend a sentence of 30 months' imprisonment. The government  
 28 believes that this sentence will reflect the seriousness of the offense, promote respect for

1 the law, provide just punishment for the offense, and deter Green and others from  
 2 engaging in similar conduct.<sup>3</sup>

3 In making this recommendation, the government is cognizant of the fact that  
 4 Green's codefendant, Jimmie Dillingham, Jr. entered a guilty plea in which he admitted  
 5 to a loss amount of \$215,638. That loss amount likely will provide Dillingham with a  
 6 two-point reduction in his offense level. If the same reduction were applied to Green, his  
 7 offense level would be 37 to 46 months' imprisonment. That guideline range, however,  
 8 would not alter the government's recommendation.

9 DATED this 9th day of January, 2015.

10 Respectfully submitted,

11 ANNETTE L. HAYES  
 12 Acting United States Attorney

13 /s/Arlen R. Storm  
 14 ARLEN R. STORM  
 15 Assistant United States Attorney  
 16 U.S. Attorney's Office

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17 <sup>3</sup> In imposing sentence, the district court must consider the sentencing range calculated under the  
 18 Guidelines, together with the other factors set forth in Title 18, United States Code, Section 3553(a),  
 19 including: (1) the nature and circumstances of the offense; (2) the history and characteristics of the  
 20 defendant; (3) the need for the sentence to reflect the seriousness of the offense, to promote respect for the  
 21 law, and to provide just punishment for the offense; (4) the need for the sentence to afford adequate  
 22 deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of  
 23 the defendant; (6) the need to provide the defendant with educational and vocational training, medical  
 24 care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available; (8)  
 25 the need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity among  
 26 defendants involved in similar conduct who have similar records. 18 U.S.C. § 3553(a).

27 The district court must "set forth enough to satisfy the appellate court that [it] has considered the parties'  
 28 arguments and has a reasoned basis for exercising [its] legal decision making authority." *Rita v. United*  
*States*, 551 U.S. 338, 339 (2007). The "law leaves much, in this respect, to the judge's own professional  
 judgment," however. *Id.* "The district court need not tick off each of the § 3553(a) factors to show that it  
 has considered them." *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (*en banc*). Instead,  
 appellate courts "assume that district judges know the law and understand their obligation to consider all  
 of the § 3553(a) factors, not just the Guidelines." *Id.* (citing *Walton v. Arizona*, 497 U.S. 639, 653  
 (1990)). *See also United States v. Knows His Guns*, 438 F.3d 913, 918 (9th Cir. 2006) (consideration of  
 § 3553(a) factors "does not necessitate a specific articulation of each factor separately").

## CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

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